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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

CHRISTOPHER H.,

Petitioner,

v.

THE SUPERIOR COURT OF FRESNO
COUNTY,

Respondent;

FRESNO COUNTY DEPARTMENT OF
SOCIAL SERVICES,

Real Party in Interest.

F074319

(Super. Ct. No. 12CEJ300098)

OPINION

THE COURT*

ORIGINAL PROCEEDING; petition for extraordinary writ review. Brian M.
Arax, Judge.

Christopher H., in pro. per., for Petitioner.

No appearance for Respondent.

Daniel C. Cederborg, County Counsel, and Brent C. Woodward, Deputy County
Counsel, for Real Party in Interest.

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*Before Kane, Acting P.J., Franson, J. and Smith, J.

Christopher H. (father), in propria persona, petitions (Cal. Rules of Court, rule 8.452) to vacate the juvenile court's August 30, 2016, order denying him reunification services and setting a Welfare and Institutions Code section 366.26 hearing for his now seven-year-old son Zachary, and five-year-old daughter Rosalie.¹ Father alleges the juvenile court's order was erroneous. His petition fails to comport with the procedural requirements of California Rules of Court, rule 8.452(b) in that it does not include a memorandum summarizing the significant facts contained in the record and supporting his argument by citation to legal authority and the record. Accordingly, we will dismiss his petition as inadequate.

PROCEDURAL AND FACTUAL HISTORY

On June 13, 2016, pursuant to a custody warrant, Fresno County Sheriff's deputies responded to mother's home, which was open to search as mother was on felony probation, to arrest father after he was seen in a stolen vehicle. Father had numerous arrest warrants. When officers approached him, father "was threatening" and threw something later found to be methamphetamine. Mother was not home at the time. Deputies found drugs and numerous needles accessible to the children lying around the house. As a result, the children were placed in protective custody and the Fresno County Department of Social Services (department) initiated these juvenile dependency proceedings. A combined jurisdiction and disposition hearing was set for July 26, 2016.

The report prepared for the combined jurisdiction and disposition hearing recommended mother be provided reunification services and father be denied services under section 361.5, subdivision (b)(13).² The report stated father was convicted in March of 2016 for unlawfully possessing paraphernalia used to inject or smoke a

¹All statutory references are to the Welfare and Institutions Code unless otherwise indicated.

²Section 361.5, subdivision (b)(13) provides reunification services need not be provided if a parent has a history of extensive, abusive, and chronic drug use and has resisted prior court-ordered treatment.

controlled substance (Health & Saf. Code, § 11364, subd. (a)); that on June 13, 2016, law enforcement found in the house a large amount of marijuana and “shake” ready for sale, as well as numerous needles lying around the house accessible to the children; that mother claimed father was a known and current methamphetamine user; that when asked, Zachary stated his father used drugs; that father allowed mother to return to the house and reside with the children despite her previous failure to reunify with them and her continued methamphetamine use;³ and that father claimed the methamphetamine and needles found in the house were for mother’s use, not his. A contested hearing was set for August 30, 2016, with a settlement conference to be held August 16, 2016.

In an addendum report, the department continued to recommend that mother be given reunification services, but father be denied services. Although the department acknowledged that mother could be denied services pursuant to both section 361.5, subdivision (b)(10)⁴ and (b)(13), it determined that providing services to mother would be in the children’s best interests.

At the contested hearing August 30, 2016, both mother and father waived their trial rights as to jurisdiction, and the juvenile court found the allegations in the department’s petition true. The juvenile court then heard argument from counsel as to whether reunification services for mother would be in the children’s best interests and whether father should be denied reunification services pursuant to section 361.5, subdivision (b)(13). Counsel for father argued that, because father was in custody after his arrest, he had not had a chance to access services, but that he would like to attend a drug treatment program when he was released. Counsel argued it was uncertain whether father had a recent relapse or whether he was resistant to treatment, as required for

³The record indicates the children were taken from mother three or four years earlier and placed with father, but that father then let mother back into the home in August of 2015.

⁴Section 361.5, subdivision (b)(10) provides reunification services need not be provided a parent if that parent has previously failed to reunify with a sibling or half sibling of the child.

section 361.5, subdivision (b)(13) to be applicable, as it was only mother who claimed father was using drugs and no drug test was completed on father.

County counsel argued there was sufficient evidence to find section 361.5, subdivision (b)(13) applicable because, prior to father's arrest in 2016, he was charged with driving under the influence in 2014, refuting any claim that father had only a recent relapse after many years of sobriety.

In addressing the section 361.5, subdivision (b)(13) bypass, the juvenile court stated that, while there was no direct proof father was using or abusing drugs at the time of his arrest, he was arrested because he was seen in a stolen vehicle and had numerous arrest warrants. Law enforcement, subject to a search of the home shared by mother and father, found razor blades and uncapped needles on the floor in a room accessible to the children, which appeared to be a "drug-use room." There were also several uncapped needles on the floor in mother and father's bedroom, a large bag of marijuana in the dresser drawer, a large bag of marijuana byproduct in another dresser in the room, and methamphetamine. In addition, the juvenile court noted father's 2014 conviction for driving under the influence of alcohol. As stated by the juvenile court, all of this combined "shows overwhelmingly to the Court to the appropriate standard of clear and convincing evidence that [father] was using and abusing drugs, resisting treatment, actively probably [*sic*] in a certain capacity by a failure to maintain sobriety. And in a way, given the convictions and the other circumstantial evidence, was far more than a temporary relapse."

After taking judicial notice of its own record in the previous dependency proceedings and reiterating the facts of the previous case, the juvenile court found section 361.5, subdivision (b)(10) and (b)(13) applied to mother, and that section 361.5, subdivision (b)(13) applied to father. Reunification services were denied to both mother and father.

The juvenile court set a permanency planning hearing (§ 366.26) for December 30, 2016, to select and implement a permanent plan for the children.

DISCUSSION

The purpose of writ proceedings such as this is to facilitate review of a juvenile court's order setting a section 366.26 hearing to select and implement a permanent plan for a dependent child. (Cal. Rules of Court, rule 8.450(a).) A court's decision is presumed correct. (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) It is up to a petitioner to raise specific issues and substantively address them. (§ 366.26, subd. (I).) This court will not independently review the record for possible error. (*In re Sade C.* (1996) 13 Cal.4th 952, 994.)

In his petition in the section calling for a statement of the reason(s) the juvenile court's order was erroneous, father states, "I'm in Fresno County Jail and cannot! But will defend my children due to serving time How can I prove my [illegible—believed to be 'sobriety'] (I Don't Do Drugs)." Father leaves blank the section in which a petitioner is to summarize the factual basis for the petition.

Father contends the juvenile court should not have made the August 30, 2016, order. However, he fails to explain how the juvenile court's decision was legally erroneous.

DISPOSITION

The petition for extraordinary writ is dismissed. This opinion is immediately final as to this court.